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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,494	03/15/2004	Howard C. Willauer	5132A	9306

7590 07/15/2005

Jeffery E. Bacon
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EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary

10

Application No.

10/800,494

Applicant(s)

WILLAUER ET AL.

Examiner

Ms. Arti Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 42-68 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner:
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. All previously made rejections are now withdrawn and arguments are moot in light of a new rejection set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 42-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5445863 issued to Slagle et al.
4. Slagle et al teach a camouflage sheet material having a three dimensional effect. As shown in column 5 onwards, the present camouflage material is formed in a blanket or composite sheet comprising a first or outer layer 10 and an opposite second or inner layer each of a pliable, planar sheet material, with a relatively thick, resilient core material 14a sandwiched there between. The first layer 10 is secured tightly to the second layer 12 (e.g., by stitching, or other alternative means) so that the two opposite layers 10 and 12 are drawn together and the resilient core material 14a is compressed along the (stitched or otherwise formed) seams, generally indicated as 16. This will result in different regions having different varying densities. As the material 14a forming the core is resilient, it will tend to expand between the seams 16, to form protruding, generally rounded ridges 18 extending from each side of the material. The seams 16 are formed in a generally elongate, random pattern, in order to resemble the generally elongate ribs or protrusions often found in the bark of a tree. The resultant three dimensional, textured surface of the first layer 10 (and second layer 12)

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of the present camouflage material sheet I will be seen to provide a reasonably realistic textural resemblance to many, if not most, bark covered exterior surfaces of trees.

Additional realism may be obtained through proper coloring, shading, and/or patterns applied to at least the outer or first layer 10, as indicated particularly in FIGS. 1 and 2 of the drawings. Preferably, at least the outer or first layer 10 of the material is provided with a relatively non-reflective, dull finish, as indicated by the stippling shown in FIGS. 1 and 2.

Such a finish may be applied over the entire outer layer 10 of material without particular regard for specific shading patterns or lines, as the depressed areas along the seams 16 of the material automatically serve to create relatively dark, shadowed areas in comparison to the protruding ridges 18 of the material. Additionally, an optional pattern of leaves 20 may be placed sporadically over the material to provide a further breakup of the overall pattern, as shown in FIGS. 1 and 2 and in the single repeat of the pattern shown in FIG. 4. The leaves 20 are preferably placed only sporadically over each repeat, in order to avoid overwhelming the general texture of the material. The leaves 20 may be provided in virtually any color as desired, e.g., browns, yellows, and/or reds for fall, etc. As another alternative, the opposite, second layer 12 may be provided with a different pattern, if desired, to provide for the reversibility of the present camouflage material and/or any garment made therefrom, in order to provide camouflage patterns more closely matching different environments. The camouflage material sheet 1a of FIG. 3A includes a central core 14a of a fiber material, either natural (cotton, kapok, etc.) or synthetic (polyester, etc.). The sheet 1b of FIG. 3B will be seen to be constructed similarly to the sheet 1a of FIG. 3A, with a first layer 10, and an opposite layer 12 sandwiching a resilient core material there between, with seams (e. g., stitching) 16 securing the assembly together and compressing the core material along the seams 16, thereby providing the same protruding rises 18 between each of the seams 16.

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However, FIG. 3B provides for a foam core 14b, rather than the fiber core material 14a of FIG. 3A. The foam core material 14b may be either an open cell foam, providing relatively low resilience as air is forced from the pores of the material as it is compressed by the seams 16, or alternatively may be a closed cell foam, which material retains trapped gases within the cells for greater resilience. Additional layer(s) of foam material 14c and/or 14d may be provided, as shown in FIG. 3B, for additional textural depth and/or insulation properties, if desired. In a like manner, additional batts or layers of fiber core material 14a may be use in the sheet 1a of FIG. 3A, if desired. FIG. 4 discloses a view of a typical repeating pattern 22 of the present camouflage pattern. The pattern 22 includes two repeats each having a first end 24 and a second end 26, with a plurality of generally elongate, random seams 16 extending there between, to simulate the appearance of typical tree bark.

Although the current reference teaches the use of synthetic fabrics it does not specifically teach the use of the specific weaves of plain, satin, knit, or nonwoven etc. However, a person having ordinary skill in the art at the time the invention was made would have found it obvious to have employed any one of these weaves, motivated by the reasoned expectation of the resultant properties of hand (smoothness) that would be reflected in the end product suppose if a satin weave were chosen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-F 9-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ms. Arti Singh
Primary Examiner
Art Unit 1771

Ars 07/11/05